



South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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WEEK IN REVIEW

HOUSE

The House debated at length, amended, and gave second reading to H.3272 which revises the Consumer Protection Code as it pertains to penalties for violations of certain loan provisions, most notably, a creditor's failure to obtain the borrower's preference of legal counsel and insurance agent before the closing of a mortgage loan. The bill prohibits borrowers from filing class action suits on such violations and sets a time limit and other restrictions on pursuing individual causes of action. The bill sets new limits on amounts which may be recovered in individual suits, such that a debtor may recover actual damages and a penalty of one hundred to one thousand dollars. Greater court awards are authorized in suits where the court finds unconscionable conduct on the part of the creditor. One of the most discussed features of the bill was the way it was designed to apply retroactively, thereby invalidating several pending class action lawsuits. At one point, the House approved an amendment which eliminated retroactive application, but ultimately, the House approved an amendment which provides that class actions pending as of the date which H.3272 receives third reading in the House may proceed, but are subject to the new remedies provided by the bill.

The House gave third reading to several measures. H.3502 prohibits partial-birth abortions except where the procedure is the only means of saving the life of the mother. Violators are guilty of a felony and must be fined not less than five thousand dollars and imprisoned not more than five years. A civil cause of action is also established. H.3101 makes it unlawful to transport a child under the age of sixteen out of state in order to circumvent a custody proceeding. Violations are applied to children born out of wedlock, and harsher penalties are assigned to violations involving actual or threatened physical force. H.3503 subjects to Ethics Act reporting requirements and scrutiny any group which receives contributions or makes expenditures to influence the outcome of legislative matters when the likeness, image, voice, or endorsement of a public official is utilized. Joint Resolution S.407 creates a commission to design and raise private funds for the erection of a monument in the Capitol Complex to recognize the accomplishments of the Honorable Strom Thurmond, United States Senator from South Carolina. H.3523 renames the South Carolina Folk Heritage Award the "Jean Laney Harris Folk Heritage Award." S.61 dissolves the committee appointed to study mandatory minimum and alternative sentences created by the crime bill of 1995. H.3065, as amended, increases the penalties for the misdemeanor of molesting or killing a bald eagle to include a five-year loss of hunting privileges and a fine of not less than one hundred nor more than five hundred dollars and/or a prison term of not less than thirty days nor more than one year. H.3318 establishes a foundation seed organization for the purpose of ensuring purity in varieties of crop seeds and plants. H.3420 provides for reliance on Pseudorabies Eradication Program Standards when importing swine. H.3180 revises limits on amounts of shrimp which may be taken over bait and provides for new penalties for violations. Joint

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Resolution H.3525 provides emergency measures for the controlling Karnal Bunt Disease. H.3299 revises the language "contractual obligation for legal services" to read "contractual obligation for reimbursement of legal services" in the statutory requirement that such insurance contracts allow the insured his choice of attorney.

SENATE

Senate floor activity was limited to introduction of bills and reports of standing committees. Third reading was given on one bill - S.407. This bill, which creates the Strom Thurmond Monument Commission, passed the House later in the week and has been enrolled for ratification. The Senate set aside the majority of their time this week for committee meetings.

STATE OF THE JUDICIARY ADDRESS

South Carolina Chief Justice Ernest Finney addressed a joint session of the General Assembly on Wednesday, February 26, for the purpose of relating the state of the judiciary. The Chief Justice reminded legislators that South Carolina is currently the state with the greatest average caseload per judge, and requested funding for six additional judicial positions to alleviate overburdening. The Chief Justice requested a 7.8 percent pay increase for judges so as to bring the state back in line with the southeastern average for judicial salaries. The Chief Justice alluded to the benefit of the Circuit and Family Court judges added last year and to the success of alternative dispute resolution programs.

COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources, and Environmental Affairs Subcommittee passed out H.3065, a bill concerned with the unlawful killing or molesting of bald eagles. The bill states that a person convicted of killing or molesting a bald eagle must be fined \$100 to \$500 and/or be imprisoned for thirty days to one year. The person would also lose his privilege to hunt in South Carolina for five years from the date he is convicted of the offense. The full committee then passed out H.3135, a bill that allows a photograph of fish, game, or wildlife to be used as competent evidence of the wildlife or fish in any proceeding. H.3155, a bill that makes it unlawful to buy, sell, or possess for sale any wildlife native to this State (unless specifically allowed by law), likewise received the committee's approval.

The full committee also adopted H.3180, a bill that imposes catch and possession limits on shrimp. Included in the bill is a provision that prohibits a person from having in his immediate control or possession more than a total of twelve dozen live or dead shrimp while

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upon the waters of the State. When a boat is being used to catch or transport shrimp, one limit is allowed among all persons in the boat. This limitation would be in effect from December sixteenth through April thirtieth of each year. Finally, the full committee adopted three other measures: H.3318, which relates to the foundation seed program and provides that the purpose of the program is the production, processing, and distribution of pure varieties of crop seeds and plants; H.3351, a bill that includes Game Zone 3 as an area where it is unlawful to use artificial lights to observe or harass wildlife; and H.3420, which provides for reliance on Pseudorabies Eradication Program Standards when importing swine.

The Agriculture Subcommittee gave a favorable recommendation to H.3462, a bill that provides an optional method for determining charges and expenses for handling and selling leaf tobacco on the floor of a tobacco warehouse. The optional method utilizes a commission not to exceed 3% on the gross sales of leaf tobacco in the warehouses with no auction, weighing, or handling fees.

EDUCATION AND PUBLIC WORKS

The full committee received a briefing of the Ways and Means 1997-98 Appropriation Bill from Ways and Means Committee members and staff. The full Education and Public Works committee met again and received an update from Elizabeth S. Mabry, Executive Director of the Department of Transportation, concerning the department's recent activities and the department's functions. The full committee also considered three bills. H.3044, which requires that a placard containing certain information be displayed on a motor vehicle before the registration and license plate are received, and provides for fines if inaccurate information is displayed, was recommitted to subcommittee. H.3121, which provides for the issuance of "*South Carolina: First in Golf*" license plates, received a favorable report with a technical amendment changing an incorrect number in the bill. H.3100, which concerns makeup of school days missed because of snow or other extreme weather conditions, received a favorable report with adoption of a subcommittee amendment which provides that local school boards may excuse up to three school days missed because of snow or other extreme weather conditions.

The Education and Public Works Higher Education subcommittee considered three bills. H.3223, which provides that any person who has been domiciled in South Carolina for less than twelve months and who is permanently and totally disabled qualifies for in-state tuition and fee rates at state-supported colleges and universities, received an unfavorable report. H.3226 received a favorable report with amendment. This bill relates to disturbances or criminal conduct on school property, and provides that if the activity results in a student being charged with a criminal offense involving injury to another person, that student must be immediately suspended and expulsion proceedings instituted. The bill was amended to read that if the activities result in a student being charged with such a criminal offense, suspension and expulsion proceedings must be immediately instituted under certain procedures and the student must be suspended or expelled for a certain period if a determination is made that the suspension or expulsion is warranted. The subcommittee adjourned debate on H.3075, which provides that students with an overall "C" average or better in certain academic courses are eligible to participate in high school teacher cadet programs if they meet all other requirements of the program.

The Education Public Works and Transit Safety subcommittee proposed a favorable report with amendment to H.3007, a bill which was recommitted to this subcommittee by the full Education and Public Works Committee. The amended version of this comprehensive bill concerns minimum driving age; waiting period between procuring a beginner's permit and gaining full licensure; conditions and restrictions for drivers with a beginner's permit; modification of restrictions for purposes of employment or travel between home, employment, and school; setting fees for permits; suspension of beginner's permit or license for points assessed; suspension of driving privileges for certain drivers who operate a motor vehicle with any measurable level of alcohol in their system; and authorization for holders of provisional or restricted licenses to operate a farm truck without an accompanying adult, under certain conditions.

JUDICIARY

The Judiciary Committee gave a report of favorable with amendment to H.3108 which requires at least twenty hours of pertinent education for licensure as a bail bondsman and at least six hours per year of continuing education for renewal of the license. The committee also reported favorably on S.61 which dissolves the committee appointed to study mandatory minimum and alternative sentences created by the crime bill of 1995. Two bills were recommitted to subcommittee: H.3182 increases various penalties for ill treatment of animals, including torture of animals, which is punishable as a felony, rather than a misdemeanor, with possible imprisonment of up to five years, rather than 180 days, and a fine of up to ten, rather than five, thousand dollars; S.78 prohibits the use of an assumed or fictitious name by a domestic corporation, foreign corporation, or partnership if the name intentionally misrepresents the geographic origin or location of the business.

The Constitutional Laws Subcommittee gave a report of favorable with amendment to joint resolution H.3132 which prohibits the state and its political subdivisions from using race, sex, color, ethnicity, or national origin as criteria for either discriminating against or granting preferential treatment to any individual or group in public employment, education, or contracting. As introduced, this legislation proposed an amendment to the South Carolina Constitution, but the subcommittee amendment proposes effecting the change through statutory revision. The amendment also eliminates a provision of the joint resolution which would not apply the legislation in situations where federal funds would be jeopardized by such application. The subcommittee also reported favorably on joint resolution H.3255 which proposes amending the South Carolina Constitution so as to abolish the office of Secretary of State effective July 1, 1999, and allow the General Assembly to decide how the duties of the office are to be devolved onto other constitutional offices.

The Election Laws Subcommittee gave favorable reports to three bills. H.3469 authorizes a county board of registration to make use of means of voting by absentee ballot other than paper ballot. H.3399 eliminates the requirement that an employer sign the written certification which an employee must show a county registrar to verify that he is obligated to be at his place of employment during polling hours, and is, therefore, qualified to vote by absentee ballot. S.76 ratifies a constitutional amendment approved by the general electors in 1996 which allows any registered elector who has moved his place of residence during the thirty days immediately prior to the date of an election to vote in his previous precinct of

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residence. Section 4, Article II of the State Constitution is amended to read as follows: "Every citizen of the United States and of this State of the age of eighteen and upwards who is properly registered is entitled to vote as provided by law."

The General Laws Subcommittee gave a favorable report to H.3316 which provides that driver's license suspension for driving under the influence of alcohol or drugs must begin on the date the individual is convicted, receives sentence upon a guilty or *nolo contendere* plea, or forfeits bail.

The Special Laws Subcommittee gave a report of favorable with amendment H.3452 which allows jury service which falls during a school term to be postponed for school personnel. The amendment narrows the definition of K-12 school personnel so as to target individuals such as teachers and bus drivers who directly interact with students. The amendment also broadens application of the bill to include institutions of higher learning.

The Criminal Laws Subcommittee reported favorably on S.41 which adds to the list of traffic violations which constitute child endangerment, the failure to stop a motor vehicle when signaled by a law enforcement officer.

LABOR, COMMERCE AND INDUSTRY

The Labor, Commerce and Industry Committee gave a report of favorable with amendment to H.3404 which eliminates the requirement that the Public Service Commission adopt procedures that encourage public utilities providing gas services to invest in cost-effective energy conservation programs. Public utilities providing gas services are no longer required to prepare integrated resource plans. The committee also reported favorably on two bills which bring South Carolina into accordance with the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), popularly known as the "Kennedy-Kassebaum Bill." S.278 accommodates provisions in the HIPAA which guarantee health insurance portability for individuals moving from group to individual coverage. Under the HIPAA, insurers in the individual market must offer coverage and accept enrollment of any eligible individual whose most recent coverage has been in the group market. S.278 takes advantage of provisions in the HIPAA which allows states to avoid direct imposition of federal mandates by creating acceptable alternative mechanisms. S.278 alters South Carolina's existing Health Insurance Pool to make it such an acceptable alternative mechanism. To that end, the bill shortens residency requirements, removes the current exclusion of HIV positive individuals, provides health coverage options, increases benefit level to one million dollars, lowers the premium cap from 300% to 200%, and eliminates the provision which allows extra premium charges in cases where a pre-existing medical condition is waived. S.288 conforms state law to certain federal mandates in the HIPAA which must be put into effect no later than July 1, 1997, lest the Department of Insurance surrender certain regulatory authority of health insurance to federal agencies. The bill accomplishes the following: (1) limits the exclusion of pre-existing medical conditions from large and small group health insurance plans; (2) restricts an insurer's ability to establish eligibility rules for large and small group health insurance plans which are based upon such health status factors as disabilities, genetic information, history of domestic abuse, etc.; (3) guarantees availability of coverage in the small group market; (4) guarantees renewability of coverage in the large and small group markets and in multi-employer self-

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insured health plans; (5) enacts provisions of the federal Newborns and Mothers Protection Act of 1996 which require health insurers who cover hospitalization and attendant professional services for mothers and newborns to provide at least forty-eight hours of postpartum care following the day of a natural delivery and at least ninety-six hours of postpartum care following the day of a Cesarean Section; (6) provides parity in the application of certain limits to mental health benefits. Additionally, the committee recommitted H.3177 which requires a general contractor's license for any marine construction undertaking where the cost of construction is at least ten thousand dollars. The committee tabled H.3268 which increases the minimum cost of an undertaking for which a general contractor's license is required.

The Business and Commerce Subcommittee reported favorably on two bills. H.3494 abolishes the South Carolina Jobs-Economic Development Authority and transfers its functions, powers, duties, and assets to the Department of Commerce. H.3470 makes technical changes so as to conform the Amusement Rides Safety Code to the Government Restructuring Act of 1993. The Subcommittee gave an unfavorable report to H.3106 which requires, with certain exceptions, that employers grant up to twelve hours per year in leave for employees to attend school conferences and activities. Employers need not pay employees for time taken.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee passed out H.3103, a bill that would authorize any agency or any person who does an early periodic screening, diagnosis and treatment screening (EPSDT) or other physical examination of a child to refer the child to an appropriate agency for an evaluation if the child may be helped by assistive technology. "Assistive technology" means a service or device used to maintain or improve the functional capacities of an individual with a disability.

The Occupational Regulation and Licensing Boards Subcommittee amended and gave a favorable recommendation to H.3286. The amendment includes technical corrections to drafting errors in the original statute. This bill corrects the grandfather provision in the Massage Therapist Practice Act. The grandfather provision was included to provide a licensure mechanism for existing massage therapists who do not meet all the education and examination requirements for regular licensure. Currently, the code contains an inconsistency regarding the amount of time a massage therapist must have been practicing in order to qualify for a grandfathered license. The first part of the provision requires the applicant to provide documentation of at least 125 hours of education and/or training within a one year period prior to the application. The second part of the provision requires documentation of the professional practice of massage within a 4 year period preceding the application. This bill changes the second part of the grandfather provision to one year to make the entire section consistent.

The Military and Public Affairs Subcommittee adjourned debate on H.3389, a bill that would allow any person authorized to use a handicapped placard to park in any available handicapped parking space that is not a numbered reserved space assigned to one person. The provisions of the bill would prohibit businesses or agencies from restricting use of handicapped spaces to persons associated with that facility.

WAYS AND MEANS

The Ways and Means Committee briefed House standing committees on the Ways and Means version of the 1997-98 General Appropriation Bill, which will be debated on the House floor beginning March 3. Also, the full committee reported out two committee bills: H.3401 - the 1997-98 Supplemental Appropriation Bill, with expenditures totaling \$144.3 million; and H.3402 - the 1997-98 Capital Reserve Fund Bill, with expenditures totaling \$84.6 million. Funds for the Supplemental Appropriation Bill include \$89.9 million of BEA estimated surplus funds from Fiscal Year 1996-97; \$52.4 million from Fiscal Year 1996-97 set-aside; \$2.9 million from Citadel lapsed funds; and a deduction of \$1,000,000 in lapsed funds of mental health patient fees, which are to be remitted to the 1997-98 general fund to offset an equivalent amount in the Department of Mental Health Patient Fee Account.

The full committee meeting agenda also included a briefing and a lengthy discussion on a draft bill entitled the "South Carolina Transportation Infrastructure Bank Act." This proposal would create the SC Transportation Infrastructure Bank, which would be governed by a board of directors, and which would provide loans and other financial assistance to government units and private entities for constructing and improving highway and transportation facilities necessary for public purposes. The draft bill cited sources which may be used to capitalize the bank, including federal funds and private and public contributions and donations; and specified sources of revenue which would be dedicated to the capitalization of the bank, including an annual contribution (not to exceed 10%) of the state's federal aid highway apportionment and one cent a gallon tax revenues (specified as the one cent that had previously been allocated to the General Fund, reallocated to the Department of Transportation, and by this proposed bill, reallocated to capitalize this bank). Interest earnings on the State Highway Fund, the County Transportation Fund, and the Economic Development Account would also be dedicated to capitalization of the bank. The draft proposal also included criteria for provision of loans and other assistance, terms of loans, and the bank's authority in the loan process; provisions regarding qualified borrowers; withholdings for failure to meet terms of agreements with the bank; a listing of agencies who would provide staff and assist the bank in administration of the program; and a listing of five specific projects which would be given priority for construction and completion over all other projects which qualify for funding from the bank. These projects include the Bobby Jones Expressway in Aiken County, Highway 170 in Beaufort County, Cooper River Bridge in Charleston County, locally determined projects in Greenville County, and projects of the RIDE Report in Horry County.

The committee debated several points on the bill, including the priority status given to the five named projects, and discussed presenting a more general plan which would establish a state planning board to identify projects. No final vote was taken on the proposed bill.

BILLS INTRODUCED

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.3522 *ELECTRONIC WAREHOUSE RECEIPTS* Rep. Sharpe

This bill allows the Commissioner of Agriculture to accept and process Electronic Warehouse Receipts (EWR) from qualified providers. If the Electronic Warehouse Receipts follow the relevant federal regulations governing EWR, they are exempt from any provisions of the South Carolina Code that are inconsistent with those regulations.

H.3524 *TAKING MARINE LIFE FOR SCIENTIFIC PURPOSES* Rep. Altman

This bill provides that the Department of Natural Resources may prescribe and require permits of persons engaged in the holding and propagation of fish, shellfish, crustaceans, and other marine life for experimental, commercial or scientific purposes. The bill also allows horseshoe crabs from which blood is collected for production of amebocyte lysate to be held in facilities approved by the department.

H.3535 *PUBLIC WEIGHTMASTERS* Rep. Sharpe

This bill amends the definition of a public weightmaster to include a person who weighs, measures, or counts any commodity and declares the weight or measurement to be true and accurate while being used for the purchase, sale, or exchange of the commodity. The bill also makes it a crime to act as a public weightmaster without first being licensed.

H.3537 *SIGNS CONCERNING SMOKING AREAS* Rep. Clyburn

This bill states that restaurants and cafeterias must conspicuously display signs designating smoking and mandatory nonsmoking areas. In complying with this section, the owner, manager, or agent of the restaurant must make every reasonable effort to prevent the designated smoking areas from impinging upon the designated, mandatory smoke-free areas by the use of existing physical barriers and ventilation systems.

EDUCATION AND PUBLIC WORKS

H.3530 *OFF-CAMPUS RELIGIOUS INSTRUCTION* Rep. Neal

This bill authorizes school district boards of trustees to excuse a student from school, under certain conditions, to attend a class in religious instruction. Students attending such classes would not be considered absent from school, but they must make up any missed school work. At the elementary, middle school, junior high, or high school level, classes in religious instruction shall be held at a time determined by local school board policy, and local school boards shall also develop policy providing parameters for the release time authorized for this instruction.

H.3532 *EDUCATION OF CHILDREN IN FOSTER CARE* Rep. Clyburn

This bill provides that it is the responsibility of the school district to provide a free and appropriate public education program to a child of lawful school age who is placed in foster care, group home orphanage, or a state-operated health care facility including a facility for

treatment of mental illness or chemical dependence located within the jurisdiction of the school district. This provision does not apply to children who are handicapped students.

H.3540 "SOUTH CAROLINA SCHOOL ACCOUNTABILITY ACT OF 1997" Rep. Clyburn

This bill enacts the SC School Accountability Act of 1997. The bill creates a joint committee of the General Assembly which is charged to review the Education Finance Act Foundation Program and by January 14, 1998, recommend a revised foundation program which shall address issues including instruction, instructional support, operations, leadership, and other commitments. The committee is also charged to review the expenditures of schools and school districts in these categories as reported by the State Department of Education finance analysis model, and the cost of providing a quality education to all students. The bill provides that the revised foundation program "shall focus on the school level and the specific needs of each classroom and school," with a portion of Education Improvement Act funds appropriated as local school innovation funds to school districts and to schools in the form of site-based flexibility grants. The bill makes provisions for the distribution of these funds and establishes specific benchmarks of success for which every public school in South Carolina will be accountable within varying specified periods. Using these benchmarks, each public school would be evaluated by the State Department of Education, which would issue every year (by January 15) a report card for each school and school district. Each school district would be required annually to report to its local community the status of district and school achievement, including a comparison of how that year's achievement compares to the achievement of the preceding year and strategies employed to improve achievement.

The bill also establishes a classification system for schools, based on a school's degree of success in meeting the benchmarks, and provides for rewards, remedies, and corrective action, depending on the school's or the district's designation within the classification system, and the degree of improvement from year to year.

The bill also provides that beginning in 1998, members of boards of trustees for school districts must be elected in non-partisan elections to be conducted at the same time as the general election, and new school board members shall complete an orientation program. Powers and duties of local school boards of trustees are delineated in the bill, as well as how trustees interact with superintendents. Also, trustees are prohibited from receiving compensation as an employee of a public school that is located in the same district in which they serve as a trustee.

H.3566 BRIDGE FOR MOTOR VEHICLES OVER RAILROAD TRACK Rep. Vaughn

This bill provides that if a bridge for motor vehicles over a railroad track is owned by a railroad company and is closed by the department of Transportation because it is unsafe for vehicular use, no railroad traffic may use the track underneath such bridge until the bridge is replaced or unless flagmen are used on the railroad tracks approaching the bridge until the bridge is replaced. The bill also establishes a "Railroad Bridge Replacement Fund," to be administered by the Department of Transportation. Railroad companies shall pay into the fund assessments for the replacement of certain bridges owned by them, in such amounts that the total cost of replacement will be shared equally by the railroad company and the state. The bill also provides for procedures under which these funds must be expended.

H.3570 TRANSPORTER MOTOR VEHICLE LICENSE PLATES Rep. Vaughn

This bill limits the use of transporter motor vehicle license plates to movement of motor vehicles from a manufacturer to a dealer or distributor, in connection with the construction of vehicle cabs or bodies and moving foreclosed or repossessed vehicles. Current law allows use of these plates for a person engaged in a business of limited operation of motor vehicles to facilitate the manufacture or construction of cabs or bodies or the foreclosure or repossession of these motor vehicles.

JUDICIARY

H.3526 CHAIN GANGS Rep. Fleming

This bill provides that medically-able inmates confined at the state and local levels must be assigned to work in a chain gang. Chain gangs from state facilities must maintain state properties and gangs from local facilities must perform local road maintenance. A medically-able inmate who refuses to work in a chain gang must be housed in solitary confinement cells of specified dimensions and features.

H.3531 POLLING PRECINCTS Rep. Altman

This bill provides that a polling precinct must have a minimum of seven hundred fifty registered electors.

H.3533 OVERTURNING LAWS OF THE GENERAL ASSEMBLY Rep. Altman

This bill provides that the acts, resolutions and laws enacted by the General Assembly shall enjoy a substantial presumption of legality and constitutionality and are not to be lightly overturned by the judiciary. The burden of proof is established which a plaintiff must meet in any court proceeding where the aim is to invalidate an act, resolution, or law of the General Assembly. The Attorney General must notify officers of the General Assembly of any court ruling which declares a law, act, or joint resolution of the General Assembly to be unconstitutional, invalid, inapplicable, or otherwise without force and effect.

H.3534 ASSISTANT PUBLIC DEFENDERS Rep. Harrison

This bill provides that an assistant public defender need not be a resident of the county in which he serves.

H.3541 EVIDENCE OF CHILD ABUSE Rep. Cotty

This bill provides that copies of, rather than original, photographs, x-rays, and other medical evidence of suspected child abuse must be sent to the Department of Social Services when a report of suspected child abuse is made.

H.3546 EMERGENCY PHYSICAL OR PROTECTIVE CUSTODY Rep. Knotts

This bill revises scheduling for certain mandatory investigations and hearings which must follow the placement of a child in emergency physical or protective custody. The Department of Social Services must conduct a preliminary investigation within forty-eight (rather than twenty-four) hours from the time a child was taken into emergency physical custody to whether legal custody should be assumed. When a law enforcement officer takes a child into emergency protective coverage, a preliminary investigation must be conducted within ninety-six (rather than seventy-two) hours. A family court probable cause hearing must be conducted within

ninety-six (rather than seventy-two) hours of the time when the child was taken into emergency protective custody.

H.3547 CONFISCATED WEAPONS Rep. Knotts

This bill eliminates the authority of clerks of court and mayors to sell confiscated or forfeited weapons by public auction. Law enforcement departments are authorized to destroy confiscated or forfeited weapons. Law enforcement departments are authorized to trade confiscated weapons with a licensed retail dealer for pistols or other equipment approved by the agency. A pistol or other handgun which has been seized for reason that it has a metal alloy frame or receiver which melts at a temperature of less than 800 degrees Fahrenheit may not be utilized by a law enforcement department, but must, instead, be destroyed or displayed after the weapon has been rendered inoperable.

H.3549 FRAUDULENT CHECKS AND LOCAL TAXES Rep. Boan

This bill authorizes local governments to make use of collection procedures for fraudulent checks when such checks are written for payment of local taxes.

H.3562 SEX OFFENDER REGISTRY Rep. Fleming

This bill eliminates restrictions on the release of information collected in the sex offender registry, authorizing a sheriff to make such information public upon request.

H.3567 MUNICIPAL ANNEXATION Rep. Riser

This bill requires the chief administrative officer of a municipality to give written notice of a planned annexation to the chief administrative officer of a contiguous municipality before the annexation is completed.

H.3569 INDECENT EXPOSURE AND ADULT ENTERTAINMENT Rep. Jordan

This bill revises penalties for the misdemeanor of indecent exposure such that a first offense carries a fine of not less than five hundred and not more than twenty-five hundred dollars, and a second offense carries a prison term not to exceed six months. A business which permits an individual to appear nude is guilty of a misdemeanor and subject to a fine of not less than one thousand nor more than twenty-five hundred dollars and a one-year suspension of alcohol licenses. For a second or subsequent offense, alcohol licenses are revoked and the business must be fined not less than twenty-five hundred nor more than five thousand dollars.

S.30 DECLARATION OF A DESIRE FOR A NATURAL DEATH Sen. Hayes

This bill substitutes the term "life-sustaining" for "death-prolonging" in the code language which states that the absence of a declaration of a desire for a natural death does not create a presumption as to the patient's wishes.

LABOR, COMMERCE AND INDUSTRY

H.3536 AUTO INSURANCE PREMIUM REDUCTIONS Rep. Clyburn

This bill requires an automobile insurance premium reduction for individuals at least fifty-five years of age who successfully complete a voluntary motor vehicle accident prevention course approved by the Department of Transportation.

H.3542 VIATICAL SETTLEMENT AGREEMENTS Rep. Limehouse

This bill provides requirements for, and penalties for violating, viatical settlement agreements. A viatical settlement contract is an agreement entered into between an owner of a life insurance policy, the insured under which has a catastrophic of life-threatening illness, such that the owner receives compensation or anything of value less than the death benefits of the insurance policy in return for an assignment, transfer, sale, devise, or bequest of the death benefits or ownership of the insurance policy.

H.3552 COUNTY ASSESSORS Rep. Boan

This bill provides that a county assessor may enter and examine new nonresidential structures before occupancy and portions of existing buildings covered by building permits.

H.3564 INSURANCE ON "LOANER" AND DEMONSTRATOR VEHICLES Rep. G. Brown

This bill provides that various motor vehicle insurance coverages are expanded to cover the insured while he is operating an automobile dealer's demonstrator vehicle or a vehicle that is loaned for use while the insured's automobile is out of service.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.3527 INMATES' POSSESSION Rep. Fleming

This bill prohibits inmates confined in Department of Corrections' facilities from possessing appliances, televisions, or radios while the inmates are in the department's custody.

H.3543 OPTOMETRISTS Rep. Kirsh

This bill rewrites the provisions of the code relating to optometrists to conform the chapter to the statutory and administrative framework for professional and occupational boards. The bill also clarifies that therapeutically-certified, optometric education courses may be taken while attending school rather than after graduation.

H.3563 EMBALMERS AND FUNERAL DIRECTORS Rep. Sandifer

This bill rewrites the provisions of the code relating to embalmers and funeral directors to conform the chapter to the statutory and administrative framework for professional and occupational boards.

WAYS AND MEANS

H.3400 1997-98 GENERAL APPROPRIATION BILL Ways and Means Committee

Highlights of the Ways and Means version of the 1997-98 budget bill were included under the "Committee Action" section of last week's *Legislative Update*. All House members were briefed on the bill through presentations and question and answer sessions presented by Ways and Means members and staff to all House standing committees.

H.3528 REVENUE IMPACT STATEMENTS Rep. H. Brown

This bill provides that the revenue impact statement on bills relating to state taxes, reported out of standing committees of the House and Senate, must be certified by the Board of Economic Advisors (BEA). Current law requires that these statements be signed by an authorized agent of the Department of Revenue. The bill also provides that the BEA may request technical advice of the Department of Revenue in preparing a statement.

S.178 TRANSFER OF NATIONAL GUARD ARMORY TO PACOLET MILLS Sen. Courtney

This joint resolution authorizes the State Budget and Control Board to transfer ownership of a surplus National Guard Armory located in the town of Pacolet Mills to the town of Pacolet Mills, and authorizes the South Carolina Budget and Control Board to transfer ownership of the National Guard Armory located in the town of Chesterfield to the town of Chesterfield.

H.3538 RETIREMENT INCOME Rep. Clyburn

This bill increases from \$3,000 to \$6,000 the maximum amount of retirement income which may be annually deducted from taxable income by a taxpayer over age sixty-five.

H.3545 PROPERTY TAXES PAID IN ERROR Rep. Koon

This bill repeals current law which states that if a taxpayer or his agent pays property taxes in error, or the payment is erroneously credited, the treasurer shall credit the amount paid against the actual liability of the taxpayer for the tax year in question.

H.3548 FILING OF RETURNS/PAYMENT BY A WITHHOLDING AGENT Rep. Boan

This bill relates to the requirement under current law that a non-resident withholding agent, and a resident withholding agent who is not required to deposit and pay federal withholding to the Internal Revenue Service under the provisions of the Internal Revenue Code, must remit certain South Carolina taxes withheld. The bill deletes the requirement that these agents "make a return" when they remit South Carolina taxes withheld under this chapter. The bill also provides a deadline for withholding agents to file fourth quarter returns and provides further that certain information which is required to be submitted to the Internal Revenue Service on magnetic media may be submitted under this section using the same method.

H.3550 DISCLOSURE OF INFORMATION/DEPARTMENT OF REVENUE Rep. Boan

This bill allows the examination of records, returns, and reports held by the Department of Revenue (the Department) by persons retained on an independent contract basis by the Department to collect delinquent taxes.

H.3551 PROPERTY TAX RELIEF FUNDS Rep. Boan

This bill amends the current method of establishing the property tax exemption by calculating the amount based on the school operating millage imposed for tax year 1995 (the method allowed under current law) or the current school operating millage, whichever is lower. The bill also amends current law by including business personal returns filed with the Department of Revenue in the section of the law relating to assessment and collection pursuant to omitted or false returns. The bill also provides that the fair market value for agricultural purposes determined for the 1991 tax year is effective for all subsequent years. Current law provides that fair market value for agricultural purposes must be redetermined every three years if the percentage factor in that year exceeds five percent but at least every six years regardless of the percentage. The bill adds a section to current law relating to levy and execution by distress

and sale of property to satisfy delinquent county taxes, so as to provide counties, upon approval by the county governing body, authority to use the procedures provided in the Setoff Debt Collection Act (Chapter 56, Title 12) as the initial step in the collection of delinquent taxes on real or personal property. The bill also amends current law so as to provide that a property taxpayer or the local governing body who disagrees with the Department of Revenue's determination concerning a refund may request a contested case hearing before the Administrative Law Judge Division. Current law provides that this hearing request may be made by a property taxpayer or the county assessor.

H.3553 HOMESTEAD EXEMPTIONS FOR DWELLINGS HELD IN TRUST Rep. Boan

This bill provides that when a trustee holds legal title to a dwelling that is the legal residence of a beneficiary 65 years of age or older, or totally and permanently disabled, or blind, and the beneficiary uses the dwelling, the dwelling may receive a homestead exemption if the trustee applies in person or by mail for the exemption, and the application is effective for as long as the property meets eligibility requirements. Current law provides that the trustee must apply annually for the exemption. The bill also provides for penalties for failure to report changes in the classification of the property.

H.3554 SALES TAX EXEMPTIONS Rep. Boan

This bill clarifies current law concerning exemptions from sales tax on tangible personal property purchased pursuant to a contract with the federal government.

H.3555 PAYMENT OF COUNTY TAXES Rep. Boan

This bill provides for payment of county taxes by credit card if the county governing body approves and if the county governing body imposes a surcharge on the payer of a certain amount. The bill also provides that payment of the surcharge by the payer is voluntary and nonrefundable.

H.3556 TIME LIMITS FOR ASSESSMENT OF TAXES Rep. Boan

This bill amends current law relating to time limits for assessment of taxes and fees by deleting references to determination and assessment of fees due under laws administered by the Department of Revenue. The bill also clarifies the time limit for filing a claim for credit or refund.

H.3557 ACCOMMODATIONS TAX OVERSIGHT COMMITTEE Rep. Wilkins

This bill eliminates the SC Accommodations Tax Oversight Committee and devolves its oversight function on the SC Department of Revenue. The bill also provides that the SC Department of Parks, Recreation and Tourism (PRT) shall publish an annual report based on local governments' and regional tourism agencies' information which will be forwarded to PRT by the Department of Revenue.

H.3558 SALE OF PROPERTY FOR DELINQUENT TAXES Rep. Boan

This bill provides that property sold for delinquent taxes may be sold at buildings other than the courthouse, specifically, any other building owned or leased by the county under certain conditions. The bill also specifies forms of payment which are acceptable.

H.3560 COIN-OPERATED NONPAYOUT MACHINES Rep. Beck

This bill provides that current law relating to nonapplication of gambling offenses to coin-operated nonpayout machines with a free play feature does not prohibit regulation of these machines pursuant to the Video Games Machines Act, including the prohibition on payoffs and location of these machines in counties where such payouts and machines are prohibited under local option provisions and the regulation of these machines by county or municipal ordinance. The bill provides that nothing in state law shall be deemed to preempt city or county regulation of video game machines. The bill also allows municipalities to limit the number of machines within its boundaries and allows municipalities and counties to impose a license fee not to exceed the amount of the state fee. Current law limits the municipal and county fee each to an amount not exceeding 10% of the state fee. The bill removes the limit on license taxes that may be levied against these businesses by a municipality or a county. The bill also allows counties and municipalities to regulate machines as defined in the Video Game Machine Act more strictly than the state restrictions imposed under that act, including but not limited to, allowing counties and municipalities to impose regulations concerning number of machines in a single location, limits on payouts, hours of operation, age of players, and proximity requirements.

H.3565 SC INCOME TAX DEDUCTIONS Rep. McLeod

This bill adds to the currently allowed deductions from individual taxable income, by allowing individual taxpayers aged 65 or over to deduct not more than \$5,000 of SC earned income received in a taxable year. The bill provides specific limits for the application of this deduction. The bill also deletes the current requirement for annual refiling of withholding exemption certificates for taxpayers 65 or older, and provides that these certificates remain valid until withdrawn by the taxpayer.

FOOTNOTE

The Legislative Update is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (WWW.LPITR.STATE.SC.US) and click on the "Quick Find Guide." On the next screen, click on "Legislative Update." This will list all of the Legislative Updates by date. Click on the date you need.